

STATEMENT OF STEVE NETSCHERT
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IN OPPOSITION TO SB 354
SENATE LOCAL GOVERNMENT COMMITTEE
FEBRUARY 13, 2009

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 4
DATE 2-13-09
BILL NO. SB 354

- I am here today to express my opposition to SB 354.
- To me this is really a matter of fairness.
- The issue is whether a governmental entity should be given such authority as to allow it to unfairly compete with the private sector in the provision of goods and services that are wholly unrelated to, and unnecessary for, the governmental entity to carry out its specific legal responsibilities.
- In this particular case the governmental entity is an airport authority.
- And the unfair competition is allowing an airport authority to enter into long term leases of publicly owned property with private entities such as the Independent record, Costco and Blue Cross and Blue Shield.
- Imagine if an Airport Authority on Butte or Kalispell were openly and aggressively competing for private entities to develop and locate on their properties. How would that be received?
- There is also a perception that an inappropriate relationship may exist between the Airport Authority and the governing body (the city or county as appropriate). This may include such items as expedited review process or other "favors" from the governing body that would not be available to the general public.
- I have clients and associates that have been damaged by these kind of actions
- §67-10-102 grants counties, cities and towns the authority to acquire by gift, deed, purchase, or condemnation land for airport purposes.
- §67-10-103 provides that all land and other property acquired and used by or on behalf of any municipality or other public agency in the manner and for the purposes enumerated are acquired and used for public and governmental purposes and as a matter of public necessity.

- §67-11-201(3) provides airport authorities the authority to, among other things, plan; develop; acquire; and construct facilities for the servicing of aircraft or for comfort and accommodation of air travelers and the purchase and sale of supplies, goods, and commodities that are incident to the operation of its airport properties.
- §67-11-306 declares that any property acquired for airport purposes, and any income derived from the ownership, operation or control of the property is exempt from taxation.
- Currently §67-11-211(1) allows an airport authority to enter into contracts, leases, and other arrangements , in connection with the operation of an airport or air navigation facility for terms not to exceed 40 years.
- The intent of the existing law is clearly to serve the purpose of operating an airport and air navigation facility for the servicing of aircraft and for the comfort and accommodation of air travelers.
- SB 354 adds the phrase "or for the support of" to this section of law. I can only believe this is intended to legitimize the current practice of certain airport authorities to lease a portion of the property they control to private entities that have no relation to the stated purposes of airports and air navigation facilities. I am quite certain those entities will justify their actions by declaring that those other non-airport related commercial ventures "support" the airport.
- This cannot be allowed.
- The land was acquired for public and governmental purposes and as a matter of public necessity.
- The land and income generated from it is tax exempt, and continues to be supported with public funds from either the local, state or federal government.
- Why then should an airport authority be allowed to unfairly compete with the private sector that must pay both property and income taxes?
- Section 2 of SB 354 removes the phrase "for the disposal of county property" from the statute on disposal of airport property.
- It appears this is being done to suggest that airport property is not otherwise property owned by the county and even more importantly that the disposal of such lands does not have to be done according to the same policies and regulations as other county owned property.
- I must ask why this is necessary.

- The legislature has always been very cautious when it comes to disposal of public property, as it should be. If disposal, whether it be through long term lease, sale or transfer is absolutely necessary it should always be required to undergo the maximum public scrutiny possible.
- Thank you for allowing me to offer these comments and,
- I urge you to table SB 354.

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